

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
Implementation of Section 621(a)(1) of)
the Cable Communications Policy Act of 1984) MB Docket No. 05-
311
as amended by the Cable Television Consumer)
Protection and Competition Act of 1992)

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**COMMENTS OF
CITIZENS COMMUNITY TELEVISION**
February 13, 2006

These Comments are filed by Citizens Community Television (CCTV) in support of the comments filed by the Alliance for Community Media ("Alliance"), the Alliance for Communications Democracy, the National Association of Telecommunications Officers and Advisors ("NATOA"), and other national local government organizations. Like the Alliance, CCTV believes that local governments can issue an appropriate local franchise for new entrants into the video services field on a timely basis, just as they have for established cable services providers. In support of this belief, we wish to inform the Commission about the benefits of cable franchising and the Public, Educational, and Government Access ("PEG") services in our community.

Cable Franchising in Our Community

Community Information

Louisville is a city with a population of 19,000. Lafayette, Superior and Erie, surrounding cities served by our public access channel, have a population of 35,000. Combined the total community population served by our public access channel is 54,000. Our franchised cable provider is Comcast Communications. Our community has negotiated cable franchises since at least September 1995.

Our Current Franchise

Our current franchise, Louisville Colorado, began on September 18, 1995 and expires on March 16, 2006.

Our franchise requires the cable operator to pay a franchise fee to the City in the amount of 5% of the cable operator's gross revenues. The revenues for franchise fee purposes are calculated based on the gross revenues of the operator, in accordance with the Federal Cable Act.

Our franchise requires the cable operator to provide the following capacity for public, educational, and/or governmental ("PEG") access channels on the cable system. We currently have one (1) channel (or capacity) devoted to public access; one (1) channels (or capacity) devoted to educational access; and one (1) channel (or capacity) devoted to government access. In addition there are two (2) unassigned channels for access expansion.

Our franchise requires that our PEG channels be supported in the following ways by the cable operator:

Government Access:

- Provide broadcast equipment
- Provide periodic upgrades to equipment

Public Access:

- Provide studio facility for use by the City
- Provide equipment and training to the City for local programming
- Provide a Mobile Studio
- Provide Field equipment
- Provide regular maintenance and upgrades to equipment

Educational Access:

- None

Our franchise is in the renewal process. It is anticipated that the above direct support will be converted to allow for capital support for PEG Access and other public interest services in the amount of approximately 50 cents per subscriber per month. This capital support is anticipated to be used for government access and public access.

Our franchise contains the following requirements regarding emergency alerts:

The cable operator will make available its facilities and personnel available to the City to provide emergency information and instructions during an emergency or

disaster period. These emergency alert requirements provide an important avenue of communication with our residents in the event of an emergency

PEG Access Services

Citizens Community Television (CCTV) has provided access services in our community for 2 ½ years. The number of access channels we operate is one (1). In our most recently completed fiscal year, CCTV provided 239 hours of new original local programming to the cable subscribers. The community used the equipment and facility 5 days a week for 1200 hours of total annual use. Below are the highlights of our services to the community.

- Video bulletin board with text and graphics for community announcements.
- Coverage of community planning forums, town hall meetings, and neighborhood board meetings.
- Community-produced television programming for special interests (such as – community non-profit organizations, ethnic and cultural groups, youth, people with disabilities, advocacy groups, health care, labor organizations, organic agriculture, metaphysical, science, community arts, etc.)
- Volunteer staff-produced television programming on topics of interest to the local community.
- Dedicated channel capacity specifically for religious organizations to air locally-produced programming.
- Hotline studios for live, interactive programs that allow local experts to answer viewer questions.
- Video production courses in the use of antiquated analog studio equipment, and state-of-the-art digital equipment for field production.
- Video production facilities including studio, field, and editing for analog and digital formats.
- Satellite program reception and redistribution.
- Local political coverage, candidate platform statements and candidate debates during campaign season.

The Franchising Process

Under the law, a cable franchise functions as a contract between the local government (operating as the local franchising authority) and the cable operator. Like other contracts, its terms are negotiated. Under the Federal Cable Act it is the statutory obligation of the local government to determine the community's cable-related needs and interests and to ensure that these are addressed in the franchising process – to the extent that is economically feasible. However derived (whether requested by the local government or offered by the cable operator), once the franchise is approved by both parties the provisions in the franchise agreement function as contractual obligations upon both parties.

While a franchise is negotiated by the local government as a contract, the process provides notice requirements for the public and the cable operator under state and local law. For instance:

During the renewal process our City conducted a Community Cable Needs Assessment. Meetings and public hearings were held and surveys were sent to ascertain the local cable related needs and how the cable franchise may serve the public interest.

Competitive Cable Systems

Our community

- has never been approached by a competitive provider to provide service.
- has not sought out competitive providers.
- has not denied any provider the opportunity to serve in our community.

Conclusions

This NPRM is only looking retrospectively at one aspect of the franchising process. We believe that the Commission must look to the future of the public's interest in telecommunication's services. The existing franchising process has provided a basis for public interest services appropriately tailored to each community's local needs. We believe that those services such as PEG should be required of all broadband telecommunications providers.

The local cable franchising process has functioned well in Louisville. As the above information indicates, we are experienced at working with cable providers, the local franchise authority, and community interests to both see that the needs of the local community are met and to ensure that the practical business needs of cable providers are taken into account.

Local cable franchising ensures that local cable operators are allowed access to the rights of way in a fair and evenhanded manner, that other users of the rights of way are not unduly inconvenienced, and that uses of the rights of way, including maintenance and upgrade of facilities, are undertaken in a manner which is in accordance with local requirements. Local cable franchising also ensures that our local community's specific needs are met and that local customers are protected.

Local franchises can also ensure that the cable operator provides the PEG Access services which are responsive to the local community needs as determined through community needs assessments and the local knowledge of educators, local elected officials and local nonprofit organizations.

Local franchises thus provide a means for local government to appropriately oversee the operations of cable service providers in the public interest, and to ensure compliance with applicable laws. There is no need to create a new Federal bureaucracy in Washington to handle matters of primarily local interest.

Local franchises allow each community, including ours, to have a voice in how local cable systems will be implemented and what features (such as PEG access, institutional networks or local emergency alerts, etc.) will be available to meet local needs. These factors are equally present for new entrants as for existing users.

Citizens Community Television (CCTV) therefore respectfully requests that the Commission take this opportunity to reaffirm the primacy of local government authority over franchising and should make clear that imposition on a new entrant of PEG Access, consumer protections and other public interest services requirements that are equivalent to those of the incumbent does not constitute an unreasonable refusal to award an additional competitive franchise within the meaning of federal law..

The PEG Access model should be strengthened and applied to new technologies, assuring that localism and community participation are not displaced by commercial interests.

The nation would be well served by a policy of "Community Reinvestment" through PEG Access that includes funds and bandwidth and/or spectrum that will be used for public purposes by:

1. Allowing the local community which owns the public rights-of-way to franchise and determine the best use of the community's property;
2. Dedicating ten percent of the public airwaves and capacity on communication facilities that occupy public rights-of-way to PEG use for free speech, diverse points of view, local programs, community based education and political speech;

3. Mandating funding of five percent of gross revenues above and beyond any franchise fee to local authorities from all infrastructure and service providers and spectrum licensees to support PEG equipment, facilities, training and services; and,
4. Making PEG Access universally available to any consumer of advanced telecommunications services capable of full-motion video.

Respectfully submitted,

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(CCTV)

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